

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DELARCIE KELLEY DAVIS,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:09CV505 HEA
)	
TROY STEELE,)	
)	
Respondent,)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on the Report and Recommendation of Magistrate Judge Frederick R. Buckles that Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, [Doc. No. 1], be dismissed. This Report and Recommendation was filed on November 30, 2010. The parties were given 14 days within which to file objections. No objections have been filed.

Judge Buckles' Report and Recommendation contains a very thorough analysis of the applicable law and background of Petitioner's state proceedings. Judge Buckles also carefully considered each argument presented by Petitioner. The Court agrees with Judge Buckles that Petitioner's arguments with respect to ineffectiveness of counsel are not meritorious. The Court therefore adopts Judge Buckles' Report and Recommendation in its entirety.

Certificate of Appealability

The federal statute governing certificates of appealability provides that "[a] certificate of appealability may issue . . . only if the applicant has made a

substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A substantial showing of the denial of a constitutional right requires that “issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings.” *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). Based on the record, and the law as discussed in Judge Buckles’ Report and Recommendation, the Court finds that Petitioner has not made a substantial showing of the denial of a constitutional right.

Accordingly,

IT IS HEREBY ORDERED that Petitioner’s Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, [Doc. No. 1], is dismissed.

IT IS FURTHER ORDERED that a Certificate of Appealability will not issue.

A separate Order of Dismissal is entered this same date.

Dated this 19th day of January, 2012.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE